

Appl. No.: 10/767,534
Response dated June 28, 2008
Reply to December 28, 2005 Office Action
Group Art Unit: 1755

Remarks

The foregoing amendments and following remarks are responsive to the December 28, 2005 Office Action. Reconsideration is respectfully requested.

Status of the Claims

Claims 1, 22 and 33 are amended. Claim 44 is cancelled without prejudice. Claims 1-43 are pending.

Support for Amendments/Added Claims

Claims 1 and 22 are amended to clarify the invention. Support for the amendments is found throughout the specification, and particularly on page 3, lines 6-14. No new matter is added.

Applicants' Election with Traverse

Applicants do not acquiesce to the statements made by the Examiner on page 2 of the Action with regard to Applicants' election with traverse. Therefore, no implication whatsoever should be made.

Objection under 37 C.F.R. 1.75(c)

Claim 33 was objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim and is amended to overcome the objection.

Rejection under 35 U.S.C. § 102(b)

Claims 1-3, 6-24 and 26-41 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,827,453 (Gross). Gross relates to defoaming

compositions for aqueous surfactant systems, whereas the invention of Claims 1-2, 6-24 and 26-41 relates to a non-aqueous composition. The reaction products of Gross are added to an aqueous surfactant to reduce or eliminate foam. The reaction product of Example 1 of Gross (cited by the Examiner) is added to an aqueous system.

The claimed non-aqueous composition is formulated to be applied to a substrate by spray application, and has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product. Since Gross fails to disclose a non-aqueous system or composition (to which an effective foam-reducing quantity of the reaction product is added) which has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product, Gross does not anticipate the subject matter of the above claims, and the rejection should be withdrawn. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-20 and 22-40 were rejected under 35 U.S.C. § 102(a) or (e) as being anticipated by U.S. Patent No. 6,350,787 (Wiggins). Wiggins relates to defoamers for aqueous systems, whereas the invention of Claims 1-20 and 22-40 relates to a non-aqueous composition. The reaction products of Wiggins are added to aqueous systems, for example, latexes and latex paint. The reaction product of Example 7 of Wiggins (cited by the Examiner) is added to an aqueous system.

The claimed non-aqueous composition is formulated to be applied to a substrate by spray application, and has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product. Since Wiggins fails to disclose a non-aqueous system or composition (to which an effective foam-reducing quantity of the reaction product is added) which has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product, Wiggins does not

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anticipate the subject matter of the above claims, and the rejection should be withdrawn. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

Claims 21 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wiggins. The arguments made above with regard to the inapplicability of Wiggins are reasserted herein as if set forth at length. Wiggins is silent with regard to providing a non-aqueous composition (to which an effective foam-reducing quantity of the reaction product is added) which has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product, and therefore fails to teach, suggest or provide motivation to reach the invention as claimed.

Therefore, in view of the above, it would not have been obvious to use a compound with 4 EO groups as alleged to arrive at the invention as claimed, and the rejection should be withdrawn. Reconsideration and withdrawal of the rejection is respectfully requested.

Double Patenting Rejections/Rejection under 35 U.S.C. § 103(a)

Claims 1-41 were rejected under as being unpatentable over Claims 1-5 and 10 of U.S. Patent No. 6,583,185 (Wiggins II) and under 35 U.S.C. § 103(a) as being unpatentable over Wiggins II. Wiggins II relates to defoamers for aqueous systems, whereas the invention of Claims 1-41 relates to a non-aqueous composition. Claim 1 of Wiggins II (from which Claims 2-5 and 10 depend) includes a water-insoluble liquid carrier (for example, paraffin oil) capable of dissolving component (a). Wiggins, however, is silent with regard to providing a non-aqueous composition (to which an effective foam-reducing quantity of the reaction product is added) which has a viscosity

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suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product, and therefore fails to teach, suggest or provide motivation to reach the invention as claimed in Claims 1-41.

Therefore, in view of the above, the claims are patentably distinct from Wiggins II, and the obviousness (Section 103) and double patenting rejection should be withdrawn. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-43 were rejected as being unpatentable over Claims 1-20 and 22 of U.S. Patent No. 6,572,691 (Brown). Brown relates to ink compositions and methods of use therefor. There is no teaching, suggestion, or motivation provided by Brown to provide a non-aqueous composition (to which an effective foam-reducing quantity of the reaction product is added) which has a viscosity suitable for applying to a substrate by spray application obtained by selection of the molecular weight and quantity of the reaction product as in Claims 1-43. Therefore, the subject matter of Claims 1-43 is not rendered obvious (or anticipated) in view of Brown. In view of the lack of teaching, suggestion or motivation from Brown, the rejection should be withdrawn. Reconsideration and withdrawal of the rejection are respectfully requested.

Fees

A Petition for a Three-Month Extension of Time is enclosed. No additional fees are believed due, but the Commissioner is authorized to charge (or credit any balance) any fees deemed due (or owing) to Deposit Account No. 50-1177.

Conclusion

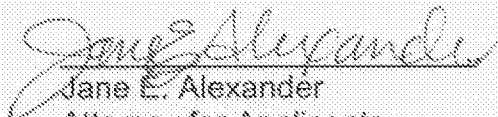
It is respectfully submitted that Claims 1-43 are in condition for allowance. A Notice of Allowance is respectfully requested. If anything further is needed to advance

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the allowance of this application, the Examiner is urged to contact Applicants' attorney
at the telephone number indicated below.

Respectfully submitted,

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